

1 **COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 USC § 1983**  
2 Name BARNES Delaney W.B.  
3 (Last) (First) (Initial)  
4 Prisoner Number F88879  
5 Institutional Address DEUEL VOCATIONAL INSTITUTION, Tracy Ca.

7	UNITED STATES DISTRICT COURT	
8	NORTHERN DISTRICT OF CALIFORNIA	
9	DEIHNEY Barnes	
10	(Enter the full name of plaintiff in this action.)	
11	vs.	CV
12	Board OF Prison	
13	Terms / Hearings	
14	(Enter the full name of the defendant(s) in this action)	
15	08 Case No. 3769 (To be provided by the Clerk of Court)	
	COMPLAINT UNDER THE CIVIL RIGHTS ACT, Title 42 U.S.C § 1983	
	E-filing (PR)	

16 *[All questions on this complaint form must be answered in order for your action to proceed.]*

## 17 | I. Exhaustion of Administrative Remedies.

18 [Note: You must exhaust your administrative remedies before your claim can go  
19 forward. The court will dismiss any unexhausted claims.]

20 A. Place of present confinement D.V.I., Tracey, Co.

21 B. Is there a grievance procedure in this institution?

22 YES (X) NO ( )

23 C. Did you present the facts in your complaint for review through the grievance  
24 procedure?

25 YES (X) NO ( )

26 D. If your answer is YES, list the appeal number and the date and result of the  
27 appeal at each level of review. If you did not pursue a certain level of appeal,  
28 explain why.

## COMPLAINT

1 1. Informal appeal

2 Appeal process of revocation  
3 proceedings have been repealed  
4 for per title 15 SEC 3000s

5 2. First formal level

6 (REPEALED)

7 3. Second formal level

8 (REPEALED)

9 4. Third formal level

10 (REPEALED)

11 13 E. Is the last level to which you appealed the highest level of appeal available to  
14 you?

15 YES  NO

16 F. If you did not present your claim for review through the grievance procedure,  
17 explain why. Refer to 1. Informal appeal.

18 See attach supporting documents.

19 (Repealed revocation system)

20 II. Parties.

21 A. Write your name and your present address. Do the same for additional plaintiffs,  
22 if any.

23 Delaney Barnes

24 DEUEL VOCATIONAL INSTITUTION, P.O BOX 600

25 TRACY, CA 95378-0600

26 B. Write the full name of each defendant, his or her official position, and his or her  
27 place of employment.

28 Board Of Prison Term / Hearings

DEUEL VOCATIONAL INSTITUTION P.O BOX 600

COMPLAINT

-2- Tracy, CA 95378-0600

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5 III. Statement of Claim.

6 State here as briefly as possible the facts of your case. Be sure to describe how each  
7 defendant is involved and to include dates, when possible. Do not give any legal arguments or  
8 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a  
9 separate numbered paragraph.

10 On July 14, 2008, THE BOARD OF PRISON TERMS /  
11 Hearing stated that my DUE PROCESS RIGHTS  
12 Violation cannot be appealed and will no  
13 longer be addressed by the BOARD OF PRISON  
14 TERMS / HEARING. THE court should hear the  
15 case because THE BOARD OF PRISON TERM /  
16 HEARING appeal system is inadequate to  
17 resolve the problem in a timely fashion  
18 and irreparable injury will result if this  
19 case is not heard in this court.

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23 IV. Relief.

24 Your complaint cannot go forward unless you request specific relief. State briefly exactly  
25 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

26 RELEASE FROM JAIL AND CONTINUE  
27 ON PAROLE, expunge all references  
28 pertaining to the disciplinary charges  
from parolee central file, Award of money  
COMPLAINT damages. -3-

1 RELEASE FROM JAIL AND CONTINUE  
2 ON PAROLE, expunge all references  
3 pertaining to the disciplinary charges  
4 from parolee central file, Award of money

5 I declare under penalty of perjury that the foregoing is true and correct.

damages

6  
7 Signed this 3rd day of August, 2008

8  
9 Alanay Barnes

10 (Plaintiff's signature)

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RE: Screening at the INFORMAL Level

July 14, 2008

**BARNES, F88879**  
WJT200000000032L **E123**

Log Number: DVI-X-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

*The action you are seeking is under the jurisdiction of the Board of Parole Hearings. Please find the attached information that also contains the BPH address.*

Richard Russell  
Appeals Coordinator  
Deuel Vocational Institution

**NOTE**

Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

**PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE**

**BOARD OF PAROLE HEARINGS**

P. O. Box 4036  
Sacramento, CA 95812-4036



Effective May 1, 2004, the Board of Prison Terms Appeals section (15 CCR sections 2050-2056) was repealed by Administrative Directive No. 04/01. The Board of Prison Terms (now the Board of Parole Hearings) no longer has an Appeals Unit; therefore, the decisions or actions regarding the issues listed below cannot be appealed and will no longer be addressed by the Board, regardless of whether the issues are written on a BPT 1040, a CDC 602, or in letter format:

- due process (including hearing scheduling)
- parole revocation process (including hearing panel issues)
- early discharge requests (prior to discharge review)
- good cause findings for hearings
- CDCR clerical errors regarding date/time/credit calculations/day for day
- CDCR/DAPO staff related issues
- Submitted prior to a Board action
- attorney issues
- witness issues
- time assessed at the revocation hearings

You may go directly to the courts per California Department of Corrections and Rehabilitation, 15 CCR section 3160, Inmate Access to the Courts. Forms are available at the institution's law library. If you are being housed at a county jail, you can obtain a copy of the forms at your jail housing unit.

Issues concerning clerical errors on BPT 1103 and 1104 forms related to Board decisions, mandatory discharge, credit eligibility during revocation terms, BPT mandated special conditions of parole, retain on parole actions, and other rules of law, can be reviewed by the Board. You can submit these concerns via correspondence to the Board of Parole Hearings, Quality Control Unit, P. O. Box 4036, Sacramento, California, 95812-4036.

There was no response to address  
above Board of Parole Hearings, Quality  
Control Unit, P.O. Box 4036 Sacramento Ca 95812-4036

7/14/08

W. Flanigan, Barron

STATE OF CALIFORNIA

INMATE/PAROLEE  
APPEAL FORM  
CDC 602 (12/07)

Location: Institution/Parole Region	Log No.	Category
1. DVI TRACY	1. _____	1X
2. _____	2. _____	_____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
DELANEY Barnes	F88879	_____	J # 232

A. Describe Problem: CALIFORNIA'S PAROLE revocation system violated the DUE PROCESS clause of the Fourteenth Amendment By ALLOWING a delay of up to THIRTY-FIVE Day OR more before Providing THE PAROLEE AN opportunity to BE heard REGARDING the reliability of the PROBABLE DETERMINATION.

\* ARREST/HOLD DATE: 4-13-08

\* REVOCATION Hearing Date: 5-19-08

If you need more space, attach one additional sheet.

B. Action Requested: RELEASE HOLD AND CONTINUE ON PAROLE

Inmate/Parolee Signature: Delaney Barnes

Date Submitted: 7-4-08

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

## D. FORMAL LEVEL

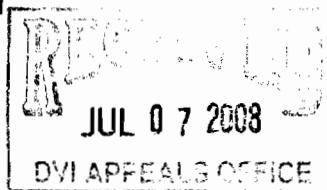
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: \_\_\_\_\_

*S/ BPH*



First Level       Granted       P. Granted       Denied       Other \_\_\_\_\_

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

Interviewed by: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Staff Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Division Head Approved: \_\_\_\_\_ Returned \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level       Granted       P. Granted       Denied       Other \_\_\_\_\_

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

See Attached Letter

Signature: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Warden/Superintendent Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

For the Director's Review, submit all documents to: Director of Corrections

P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:       Granted       P. Granted       Denied       Other \_\_\_\_\_

See Attached Letter

Date: \_\_\_\_\_

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

## I.(a) PLAINTIFFS

## DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> Original Proceeding	<input type="checkbox"/> Removed from State Court	<input type="checkbox"/> Remanded from Appellate Court	<input type="checkbox"/> Reinstated or Reopened	<input type="checkbox"/> Transferred from Another district (specify) _____	<input type="checkbox"/> Multidistrict Litigation	<input type="checkbox"/> Appeal to District Judge from Magistrate Judgment
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## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury Med Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 893 Environmental Matters
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 863 DWIC/DIWV (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer w/ disb - Empl	<input type="checkbox"/> 555 Prison Condition		
	<input type="checkbox"/> 446 Amer w/ disb - Other			
	<input type="checkbox"/> 480 Consumer Credit			
	<input type="checkbox"/> 490 Cable/Satellite TV			

## VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

VII. REQUESTED IN COMPLAINT:  CHECK IF THIS IS A CLASS ACTION      DEMAND \$  CHECK YES only if demanded in complaint:  
UNDER F.R.C.P. 23      JURY DEMAND:  YES  NO

VIII. RELATED CASE(S) PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE  
IF ANY "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

SAN FRANCISCO/OAKLAND

SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44  
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.C.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

Date and Attorney Signature. Date and sign the civil cover sheet.